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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,829	03/06/2002	Victor Shiang Yang	55099.00014	8509

7590

07/12/2004

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EXAMINER

BATAILLE, PIERRE MICHE

ART UNIT

PAPER NUMBER

2186

3

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/091,829

**Applicant(s)**

YANG ET AL.

**Examiner**

Pierre-Michel Bataille

**Art Unit**

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is taken in relation to prosecution of the instant application, which present claims 1-53 for examination.
2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "APPARATUS AND SYSTEM CAPABLE OF DOWNLOADING AND UPDATING INFORMATION AND APPLICATION PROGRAM UTILIZING SHORT WIRELESS MESSAGES".

Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,701,521 (McILroy et al) in view of US 2003/0186689 (Herle et al).

With respect to claim 1, McIlroy discloses a system updating an application program on a wireless device (***system for updating an application on a portable computer system (palmtop computer system) Fig. 12 and Fig. 13***) comprising: identifying information relating to a storage location of an application program (***(identifying whether an updated version of any of the applications (and/or the associated components, objects and files) is available for update)***); composing a trigger message based on the identified information (***(using the application and attribute information, an updated version of an application, file, component or object is retrieved from the Internet using software manager)***); sending the trigger message to the mobile device, the trigger message including a file retrieve command for initiating over-the-air downloading of the application program (***(installing the application program on the portable computer system using host computer system via wireless connections Fig. 9A and Fig. 10A)***) [abstract; Col. 19, Lines 53-67; Col. 20, Line 55 to Col. 21, Line 36].

With respect to claim 10, McIlroy teaches a method updating an application program in a mobile device (***system and method for updating an application on a portable computer system (palmtop computer system) Fig. 12 and Fig. 13***) comprising: identifying information to be updated in the application program (***(identifying whether an updated version of any of the applications (and/or the associated components, objects and files) is available for update)***); composing a short wireless message including embedded data for updating the application program, the embedded data pertaining to the identified information (***(communicating a specification using the***

**application and attribute information**); and sending the composed short wireless message including embedded data to the mobile device **(installing the application program on the portable computer system using host computer system via wireless connections Fig. 9A and Fig. 10A)** [abstract; Col. 19, Lines 53-67; Col. 20, Line 55 to Col. 21, Line 36].

With respect to claims 16, 19, 21, 26, 35, 39, and 42, encompassing the features as recited in claims 1 and 10 above, the claims are rejected under the same rationale as noted above.

With respect to claims 2, McIlroy teaches the trigger message comprising a short wireless message **[Col. 7, Lines 11-25]**.

With respect to claims 3-6, McIlroy teaches the short wireless message comprising a message sent through wireless Internet connection **[Col. 7, Lines 11-25]** where protocols such as CTP (Compact Transport Protocol) and CML (Compact Markup Language) used by portable computer system **[Col. 6, Line 57 to Col. 7, Line 4; Col. 7, Lines 11-25]**.

With respect to claims 7-9, McIlroy teaches receiving a request for the application program: searching a database for the requested application program; and receiving the triggered message at the mobile device, parsing the received triggered message for the file receive command and executing the file retrieve command to initiate over-the-air downloading of the requested application **(software manager parsing the information describing the application of interest, locating and retrieving other resources needed or associated files, components or objects for software installer to start**

Art Unit: 2186

**installing applications via wireless connections of Fig. 9A and Fig. 10A)** [Col. 9, Lines 42-65; Col. 14, Lines 10-40].

With respect to claims 11-15, 17-18, 20, 22-25, 27-34, 36-38, 40-41, 43-53, encompassing the features as recited in claims 2 through 9 above, the claims are rejected under the same rationale as noted above.

5. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,463,463 (Godfrey et al)

6. With respect to claims 1 and 10, Godfrey teaches a method updating an application program in a mobile device comprising: identifying information to be updated in the application program (**identifying user-defined triggering events to be pushed to a user's mobile data communication device**); composing a short wireless message including embedded data for updating the application program, the embedded data pertaining to the identified information (**programming a list of messages and repackaging the items in the list for deliver to the mobile data communication device**); and sending the composed short wireless message including embedded data to the mobile device (**response to receiving one of these triggers, a server directs the user's data items to the proper mobile data communication device**) [Col. 4, Lines 3-44].

### **Conclusion**

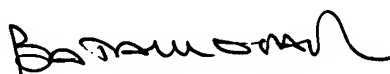
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 20030186689 (Herle et al) teaching system and method for IOTA software download notification for wireless communication devices

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (703) 305-0134. The examiner can normally be reached on Tue-Fri (7:30A to 6:00P).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (703) 305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre-Michel Bataille  
Primary Examiner  
Art Unit 2186

July 2, 2004